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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mercedes Navarro,)
Petitioner,) CV 08-0642-PHX-PGR (MHB)
v.) **ORDER**
Dora B. Schriro, et al.,)
Respondents.)

The Court having reviewed *de novo* the Report and Recommendation of Magistrate Judge Burns and no party having filed any objection to the Report and Recommendation,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation (Doc. 8) is ACCEPTED and ADOPTED by the Court.¹

IT IS FURTHER ORDERED that petitioner's Petition for Writ of Habeas Corpus (Doc. 1) is DENIED and DISMISSED with prejudice.

DATED this 10th day of December, 2008.

Paul G. Rosenblatt
Paul G. Rosenblatt
United States District Judge

¹ The Magistrate Judge found that Petitioner’s claims are procedurally barred because at this late date she cannot return to the state courts to present her claims. *See Ariz. R.Crim. P.* 32.1, 32.2(a) & (b); *see generally Stewart v. Smith*, 536 U.S. 856, 860-61 (2002)(holding that Rule 32.2(a) is an adequate and independent procedural bar). Additionally, she would be time-barred from seeking appellate review of the trial court’s denial of her PCR. *See Ariz. R. Crim. P.* 32.9(c). Any return now to state court would therefore be futile. Therefore, Petitioner’s claims are procedurally defaulted. Furthermore, Petitioner has not claimed or demonstrated that a miscarriage of justice would result if her claims are not considered, or that cause exists for her noncompliance with state procedural rules.